

**UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT**  
**Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500**

**MOTION INFORMATION STATEMENT**

Docket Number(s): 13-4850

Caption [use short title]

Motion for: Leave to file Amicus Brief

Kreisberg v. Healthbridge Management, LLC, et. al.

Set forth below precise, complete statement of relief sought:

Movant seeks leave to file brief on behalf of  
proposed Amicus Curiae, New England Health  
Care Employees Union, District 1199 SEIU, in  
support of Appellee NLRB

MOVING PARTY: Proposed Amicus Curiae

Plaintiff       Defendant  
 Appellant/Petitioner       Appellee/Respondent

OPPOSING PARTY: Healthbridge Mgmt et. al., AppelleesMOVING ATTORNEY: Elizabeth A. GrdinaOPPOSING ATTORNEY: Rosemary Alito, George Barbatsuly,

[name of attorney, with firm, address, phone number and e-mail]

Mooney, Green, Saindon, Murphy & WelchK&L Gates1920 L Street NW, Ste. 400, Washington, DC 20036One Newark Center, Tenth Floor, Newark, NJ 07102202-783-0010; bgrdina@mooneygreen.com973-848-4022; rosemary.alito@klgates.comCourt-Judge/Agency appealed from: U. S. District Court, District of Connecticut, Judge Chatigny

Please check appropriate boxes:

**FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND  
INJUNCTIONS PENDING APPEAL:**

Has request for relief been made below?

Yes       No

Has this relief been previously sought in this Court?

Yes       No

Requested return date and explanation of emergency: \_\_\_\_\_

Opposing counsel's position on motion:

Unopposed     Opposed     Don't Know

Does opposing counsel intend to file a response:

Yes     No     Don't Know

Is oral argument on motion requested?

Yes     No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set?

Yes     No If yes, enter date: June 26, 2014

Signature of Moving Attorney:

/s/ Elizabeth A. GrdinaDate: 6/12/2014Service by:  CM/ECF

Other [Attach proof of service]

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

JONATHAN B. KREISBERG, Regional Director  
of Region 34 of the National Labor  
Relations Board, for and on behalf of the  
NATIONAL LABOR RELATIONS  
BOARD

Plaintiff--Appellee,  
v. No. 13-4850

710 LONG RIDGE ROAD OPERATING  
COMPANY II, LLC DBA LONG RIDGE OF  
STAMFORD; 240 CHURCH STREET OPERATING  
COMPANY II, LLC DBA NEWINGTON HEALTH  
CARE CENTER; 1 BURR ROAD OPERATING  
COMPANY II, LLC DBA WESTPORT HEALTHCARE  
CENTER; 245 ORANGE AVENUE OPERATING  
COMPANY II, LLC AKA WEST RIVER HEALTH  
CARE CENTER; 341 JORDAN LANE OPERATING  
COMPANY II LLC DBA WETHERSFIELD HEALTH  
CARE CENTER,

Defendants,

HEALTHBRIDGE MANAGEMENT, LLC,  
FKA DANBURY HCC,

Defendant -Appellant.

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**MOTION FOR LEAVE TO APPEAR AS *AMICUS CURIAE*  
AND TO FILE ACCOMPANYING AMICUS BRIEF**

Pursuant to Fed. R. App. Proc. 29 (a), New England Health Care  
Employees Union, District 1199, SEIU (“District 1199” or “the Union”),  
respectfully moves this Court for leave to appear as *amicus curiae* and file the

accompanying Brief in Support of Plaintiff-Appellee, National Labor Relations Board, seeking to affirm the December 23, 2013 Order of the United States District Court for the District of Connecticut, the Honorable Robert N. Chatigny, holding Defendant-Appellant Healthbridge Management, LLC in contempt for its failure to comply with the requirements of the court's prior injunction.

District 1199<sup>1</sup> states its interest pursuant to Fed. R. App. 29(b)(1) as follows: The Union is a labor organization within the meaning of Section 2(5) of the National Labor Relations Act (NLRA or the Act), and is the certified exclusive collective bargaining representative of non-professional employees at the Defendants' long term care facilities in Connecticut ("Centers"), which are managed by Defendant-Appellant Healthbridge Management, LLC. ("Healthbridge"). The Union currently represents 700 employees at five of the Centers managed by Healthbridge. Prior to the disputes in this litigation, Defendants and the Union were parties to labor contracts at six Connecticut Centers in effect from December 31, 2004 to March 16, 2011. The district court determined Healthbridge was a joint employer with the Centers in this matter.

Pursuant to Fed. R. App. Proc. 29(b)(2), an amicus brief from the Union is

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<sup>1</sup> Pursuant to Local Rule 29.1(b), no party to this proceeding has authored any portion of this brief or contributed money intended to fund this brief. No person, other than *amicus curiae*, contributed money that was intended to fund preparing or submitting this brief.

desirable and the matters asserted are relevant to the disposition of the case because the Union participated in the unfair labor practice proceedings before the NLRB in this matter, by initiating the unfair labor practice charges and assisting in the investigation of the charges.

Because of its participation in the underlying collective bargaining and other events at issue in the case, the Union has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide. Moreover, the Union is directly affected by the Defendant-Appellant's failure to comply with the district court's injunction, which required Healthbridge to offer reinstatement to the Union's seven hundred striking members, restore the previous wages, benefits, terms and conditions of employment that were in effect prior to June 16, 2012, and rescind all unilateral changes.

The Union thus has a stake in seeking the affirmance of the district court's order. "An amicus brief should normally be allowed... when the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide." *Scarlett v. United States Dep't of Homeland Sec. Bureau of Immigration & Customs Enforcement*, 2009 U.S. Dist. LEXIS 40144, 2-3 (W.D.N.Y. May 12, 2009), quoting *Ryan v. Commodity Futures Trading Comm'n*, 125 F.3d 1062, 1063 (7th Cir. 1997). Moreover, courts routinely permit the Union to participate as *amicus curiae* in proceedings under §10(j) of the

NLRA. See, e.g., *Dunbar ex rel. NLRB v. Landis Plastics*, 996 F. Supp. 174, 179-180 (N.D.N.Y 1998).

The Union was afforded *amicus* status and participated in the district court contempt proceedings below. [See Dist. Ct. ECF No. 66]. The Union was also granted the right to file an *amicus* brief in this Court during Defendants' appeal of the 10(j) injunction. *Kreisberg v. HealthBridge Mgmt., LLC*, 732 F.3d 131(2d Cir. 2013) (2d Cir. Doc. No. 139).

Finally, this Motion is timely submitted pursuant to Fed. R. App. Proc. 29(e). The brief of the Appellee NLRB was filed on June 5, 2014, pursuant to this Court's briefing schedule.

A Declaration in Support of this Motion is attached hereto.

Dated: June 12, 2014

Respectfully submitted,

/s/Elizabeth A. Grdina  
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Motion was electronically filed and served on the parties on June 12, 2014, via the Court's CM/ECF system, which will send notice of such filing to the following registered CM/ECF users:

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